

# Election Statute Navigator: Wisconsin

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of October 19, 2020. Please contact [elect@wm.edu](mailto:elect@wm.edu) with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link: <https://ebenchmark.org/wisconsin/covid/#tracker>.

## Voter Registration

- Voter permitted to register up to and including Election Day (aka Same Day Registration)
  - **§ 6.29:** No names may be added to a registration list for any election after the close of registration, except as authorized under this section or **§ 6.55 (2)** or **§ 6.86 (3) (a) 2**. Any person whose name is not on the registration list but who is otherwise a qualified elector is entitled to vote at the election upon compliance with this section, if the person complies with all other requirements for voting at the polling place.
  - **§ 6.28(1)(a):** The municipal clerk or board of election commissioners may assign election registration officials to register electors who apply for an in-person absentee ballot under **§ 6.86 (1) (b)** or *to register electors at a polling place on election day or at a residential care facility*, as defined under **§ 6.875 (1) (bm)**.
- Voters (other than above) register prior to Election Day
  - **§ 6.28(1)(a):** Registration in person for an election closes at 5 p.m. on the 3rd Wednesday preceding the election.
  - **§ 6.28(1)(a):** Registrations made by mail under **§ 6.30 (4)** must be delivered to the office of the municipal clerk or postmarked no later than the 3rd Wednesday preceding the election.
  - **§ 6.28(1)(a):** Electronic registration under **§ 6.30 (5)** for an election closes at 11:59 p.m. on the 3rd Wednesday preceding the election.
- Online registration available **§ 6.30(5)**
  - [See official Wisconsin online registration website](#)
- Registration via mail available **§ 6.30(4)**
- In-Person registration available
  - **§§ 6.28(1)(b); 6.28(4):** Locations to register
  - **§ 6.30(1):** An elector shall apply for registration in person, except as provided under subs. (4) and (5) and **§ 6.86 (3) (a) 2**.
- Preregistration allowed



- **§ 6.05:** Any person who will be 18 years old on or before election day is entitled to vote if the person complies with this chapter.
- Residency requirement **§ 6.10**
- Prior conviction eligibility
  - **§ 6.03(1)(b):** Any person convicted of treason, felony or bribery, unless the person's right to vote is restored through a pardon or under s. 304.078 (3), will have their vote rejected
- Voters judged mentally incompetent cannot vote
  - **§ 6.03(1)(a):** Any person who is incapable of understanding the objective of the elective process or who is under guardianship, unless the court has determined that the person is competent to exercise the right to vote, will have their vote rejected
- Voter list maintenance guidelines **§ 6.36**
- Other:
  - **§ 6.15:** Any person who was or who is an eligible elector under **§§ 6.02 and 6.03**, except that he or she has been a resident of this state for less than 28 consecutive days prior to the date of the presidential election, is entitled to vote for the president and vice president but for no other offices.
  - **§ 6.18:** If ineligible to qualify as an elector in the state to which the elector has moved, any former qualified Wisconsin elector may vote an absentee ballot in the ward of the elector's prior residence in any presidential election occurring within 24 months after leaving Wisconsin by requesting an application form and returning it, properly executed, to the municipal clerk of the elector's prior Wisconsin residence.
  - **§ 6.21:** When by due proof it appears to the board of absentee ballot canvassers that a person casting an absentee ballot at an election has died before the date of the election, the inspectors or board of absentee ballot canvassers shall return the ballot with defective ballots to the issuing official.
  - **§ 6.21:** The casting of the ballot of a deceased elector does not invalidate the election.

### *State Absentee, Early, and Mail Voting*

- No-excuse absentee voting **§ 6.86(1)(ac)**
- Online absentee ballot application available **§ 6.86(1)(a)(6)**
- Absentee ballot application is verified **§ 6.87(1)**



- Permanent absentee voting options
  - **§ 6.86(2)**: An elector who is indefinitely confined because of age, physical illness or infirmity or is disabled for an indefinite period may by signing a statement to that effect require that an absentee ballot be sent to the elector automatically for every election.
- Copy of Voter ID required with absentee ballot
  - **§ 6.87**: Voter ID not needed with ballot, but needed with absentee application
- Notary or witness signatures required on return envelope **§ 6.87**
- Absentee ballot verification details **§ 6.88**
- State allows voters to correct signature discrepancies
  - **§ 6.87(9)**: Municipal clerks return any deficient absentee ballot envelopes with a new envelope to the voter. A voter may provide a corrected signature envelope until close of polls Election Day.
- Deadline by which election official must receive absentee/mailed ballots
  - **§ 6.87(6)**: Election day, by 8 p.m.
- Absentee/Mail ballot processing and counting procedures **§ 6.88**
- Spoiling/Replacement/Correction ballot restrictions
  - **§ 6.80(2)(c)**: Any elector who, by accident or mistake, spoils or erroneously prepares a ballot may receive another, by returning the defective ballot, but not to exceed 3 ballots in all.
  - **§ 6.86(3)(b)(5)**: Whenever an elector returns a spoiled or damaged absentee ballot to the municipal clerk, or an elector's agent under sub. (3) returns a spoiled or damaged ballot to the clerk on behalf of an elector, and the clerk believes that the ballot was issued to or on behalf of the elector who is returning it, the clerk shall issue a new ballot to the elector or elector's agent, and shall destroy the spoiled or damaged ballot.
- Other:
  - **§ 6.87(3)(a)**: If the ballot is mailed, and the ballot qualifies for mailing free of postage under federal free postage laws, the clerk shall affix the appropriate legend required by U.S. postal regulations. Otherwise, the clerk shall pay the postage required for return when the ballot is mailed from within the United States. If the ballot is not mailed by the absentee elector from within the United States, the absentee elector shall provide return postage.
  - **§ 7.52**: Canvassing of absentee ballots



## *In-Person Voter ID*

- Photo ID requirements
  - **§ 5.02(6m)**: Identification document list
  - **§ 6.79(2)**: Voting procedure, identification requirements
  - **§ 6.79(3)(a)**: Except as provided in sub. (6), if any elector offering to vote at any polling place refuses to give his or her name and address, the elector may not be permitted to vote
- Options for voters without ID **§ 6.97**

## *Provisional Voting*

- Provisional ballot availability **§ 6.97**
- Time allotted to determine the status of provisional ballot and correct information
  - **§ 7.52**: by 8:00 p.m. on Election Day or the municipal clerk by 4:00 p.m. of the Friday following the election.
- Provisional ballot rejection reasons:
  - **§ 7.52**: If voter does not provide the proper documentation to prove eligibility to vote (ID or proof of residency) by 4 p.m. the Friday after the election.

## *Polling Place*

- Polling Place availability and requirements
  - **§ 5.25**: Polling places availability
  - **§ 5.35**: Polling place requirements
- Electioneering or campaigning must not be closer than **100** feet to the entrance of the polling place **§ 12.03(2)(b)(1), (d); (4)**
- Rules governing poll observers
  - **§ 6.875(7)**: [Absentee voting in certain residential care facilities and retirement homes] One observer from each of the 2 recognized political parties whose candidate for governor or president received the greatest number of votes in the municipality at the most recent general election may accompany the deputies to each home or facility where absentee voting will take place under this section. The observers may observe the process of absentee ballot distribution in the common



areas of the home or facility. Each party wishing to have an observer present shall submit the name of the observer to the clerk or board of election commissioners no later than the close of business on the last business day prior to the visit.

- **§ 7.41(1):** Any member of the public may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855 on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process, except a candidate whose name appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office or alternate site at that election.
- Police presence
  - **§ 7.22(5):** The chief of police shall station a police officer at polling places designated by the municipal board of election commissioners for each election.
  - **§ 7.37(13):** For each polling place, the municipal clerk shall designate an official of the municipality who shall position himself or herself at the end of the line of individuals waiting to vote, if any, at the time that the polls officially close. The official may be an appointed inspector who serves at that polling place, an employee of the municipal clerk or a police officer.

## *State Emergency Rules and How Elections are Affected*

- Note: There are no statutes, but the state election board created a report advising local authorities on how to respond to emergencies and security threats.
  - See [Wisconsin Contingency Planning and Election System Security Report](#)

## *Counting Rules*

- Voting system requirements
  - **§ 5.37:** Requirements
  - **§ 5.40:** Use of voting machines or systems
  - **§ 5.76:** Adoption, experimentation, or discontinuance of systems
- Counting procedures
  - **§ 5.85:** Receiving, counting, tallying and return of ballots
  - **§ 5.86:** Proceedings at central counting locations
  - **§ 5.87:** Tabulating votes
- Other:



- **§ 7.25:** Voting machine officials' duties
- **§ 7.37:** Inspector's duties
- **§ 7.51:** Local board of canvassers and canvass procedure
- **§ 7.52:** Canvassing of absentee ballots

## *Contest/Protest, Recount Rules*

- Challenging a voter
  - **§ 6.48(1):** Any registered elector of a municipality may challenge the registration of any other registered elector by submitting to the municipal clerk or executive director of the board of election commissioners in cities of more than 500,000 population an affidavit stating that the elector is not qualified to vote and the reasons therefor.
  - **§ 6.48(2):** In cities of more than 500,000 population, objections may be made before the board of election commissioners which shall sit on the last Wednesday before each election from 9 a.m. to 12 a.m. and from 2 p.m. to 5 p.m. to hear objections then made or deferred under sub.
  - **§ 6.48(3): § 6.03 (3)** applies to any challenge which is made to registration based on an allegation that an elector is incapable of understanding the objective of the elective process and thereby ineligible for registration.
  - **§ 6.48(4):** The municipal clerk or board of election commissioners may not disqualify an elector under this section except upon the grounds and in accordance with the procedure specified in **§ 6.325**.
  - **§ 6.92:** Challenges made by inspector
  - **§ 6.925:** Elector making challenge in person
  - **§ 6.93:** Challenging an absent elector
  - **§ 6.935:** Challenge based on incompetency
  - **§ 6.94:** Challenged elector oath
- Contest/Protest recount
  - **§ 9.01:** A candidate may request a recount (candidate expense) if the difference in votes between the candidate and the leading candidate is not more than 1% of the total votes cast for the office (where more than 4,000 votes are cast). The candidate must pay for the recount unless candidate is the leading candidate following the recount.
- Other:



- **§ 6.95:** Voting procedure for challenged electors
- **§ 7.54:** In all contested election cases, the contesting parties have the right to have the ballots opened and to have all errors of the inspectors, either in counting or refusing to count any ballot, corrected by the board of canvassers or court deciding the contest.
- **§ 9.10:** The qualified electors of the state, of any county, city, village, or town, of any congressional, legislative, judicial, town sanitary, or school district, or of any prosecutorial unit may petition for the recall of any incumbent elective official by filing a petition with the same official or agency with whom nomination papers or declarations of candidacy for the office are filed demanding the recall of the officeholder.

